

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN ADMIRALTY

CASE NO: 1:24-cv-21474

Fast Response Marine Towing and Salvage, LLC,
A Florida Corporation,

Plaintiff,

v.

MCL Fund Investment LLC, *in personam*, and
M/V AZZURRA, a 1999 AZIMUT, 58-foot,
vessel bearing hull identification number XAX580B3A999,
Her engines, tender, tackle, equipment,
Furnishings and appurtenances, *in rem*,

Defendants,

_____ /

PLAINTIFF'S MOTION FOR THE COURT TO ORDER THAT A BOND BE POSTED

Plaintiff, Fast Response Marine Towing and Salvage, LLC, hereby moves the Court to enter an order requiring Accelerant Specialty Insurance Company and Texas Insurance Company file a surety bond with the Court pursuant to a letter of undertaking that was filed on July 24, 2024 (see D.E. 23-1).

Plaintiff Fast Response Marine Towing and Salvage, LLC ("Fast Response") arrested the M/V AZZURRA in this case and has asserted a salvage claim (see D.E. 1). The vessel was released from arrest in this case upon the posting of a letter of undertaking in which Accelerant Insurance Company and Texas Insurance Company agreed to file a bond in the amount of \$59,500.00 plus costs. (see D.E. 23-1). After the letter of undertaking was filed with the Court the M/V AZZURRA was released by the Court (see D.E. 25).

Fast Response has learned that the vessel's insurance companies, Accelerant Specialty Insurance Company and Texas Insurance Company, have filed a declaratory judgment action in this Court seeking for a Court order stating that they do not have to provide insurance coverage regarding the M/V AZZURRA. (See Exhibit A- copy of declaratory judgment action filed by- Case number 0:24-cv-61976 filed by Accelerant Specialty Insurance Company and Texas Insurance Company in the U.S. District Court for the Southern District of Florida on October 22, 2024).

Plaintiff Fast Response believes that the security that was posted in this case to release the vessel M/V AZZURRA must be modified to adequately protect its *in rem* salvage claim. The two insurance companies that authorized the defense attorney to post the Letter of Undertaking in this case have now filed an independent action seeking to have the insurance policy declared void. Plaintiff wants the Court to enforce the terms of the Letter of Undertaking and have the two insurance companies post a surety bond for the amount they agreed to with the Clerk of the Court pending the trial in this case (and any appeal if necessary).

MEMORANDUM OF LAW IN SUPPORT OF MOTION

Supplemental Federal Rule of Civil Procedure E (6) allows for the Court to modify the security that has been posted for "good cause shown". Plaintiff submits that it has shown good cause in that the very insurance companies that have posted the Letter of Undertaking in this case in exchange for the release of the M/V AZZURRA, which was under arrest, have now filed a separate action seeking to disavow their obligation to provide coverage to the vessel. Plaintiff wants the insurance companies to live up to their obligation and agreement to post the surety bond that they agreed to in their Letter of Undertaking.

The plaintiff has “changed its position” in reliance on the Letter of Undertaking that was posted in exchange for the release of the vessel. Plaintiff would state that the security, as posted, is impaired and more than just a simple Letter of Undertaking is required to satisfy the agreement of the two insurance companies that caused the vessel that was under arrest (to satisfy any claim) be released.

CONCLUSION

The Court should order that Accelerant Specialty Insurance Company and Texas Insurance Company post an actual surety bond in the amount of \$59,500.00 plus costs that are to be taxed in any judgement as the security in this case has been impaired as evidenced by the two insurance companies filing a declaratory judgment action in this Court seeking to avoid liability under the insurance policy issued to cover the vessel M/V AZZURRA.

WHEREFOR the Plaintiff Fast Response moves the Court to enter an order requiring Accelerant Specialty Insurance Company and Texas Insurance Company file a surety bond with the Clerk of the Court in the amount of \$59,500.00 (plus costs to be taxed) as they agreed to in their Letter of Undertaking that was filed with the Court (D.E. 23-1).

CERTIFICATE OF CONFERRING

The undersigned certifies that he has conferred with opposing counsel and the opposing counsel opposes the relief sought in this motion.

/s/ Jacob J. Munch. Dated 13 November 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **November 13, 2024**, that I filed the foregoing via the CMECF filing system which emailed the foregoing document to: RICHARD J. McALPIN, and GEORGE

S. FLOREZ, McALPIN FLOREZ MARCOTTE, P.A., 80 Southwest 8th Street, suite 2805, Miami,
FL 33130.

/s/ Jacob Munch

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